



U.S. Department of Justice

United States Attorney
Western District of Pennsylvania

Joseph F. Weis, Jr. U.S. Courthouse
700 Grant Street
Suite 4000
Pittsburgh, Pennsylvania 15219

412/644-3500

December 6, 2021

Patrick Livingston, Esquire
220 Grant Street
Fifth Floor
Pittsburgh, PA 15219-2263

Re: United States of America v.
Nicholas Lucia
Criminal No. 20-174

Dear Mr. Livingston:

This letter sets forth the agreement by which your client, Nicholas Lucia, will enter a plea of guilty in the case captioned 20-174. The letter represents the full and complete agreement between Nicholas Lucia and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, Nicholas Lucia will be sentenced under the Sentencing Reform Act, 18 U.S.C. § 3551, et seq. and 28 U.S.C. § 991, et seq. The Sentencing Guidelines promulgated by the United States Sentencing Commission will be considered by the Court in imposing sentence. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States District Court by a preponderance of the evidence.

- A. The defendant, Nicholas Lucia, agrees to the following:
1. He will enter a plea of guilty to Count One of the Indictment at Criminal No. 20-174 charging him with violating 18 U.S.C. §§ 2 and 231(a)(3) (Obstruction of Law Enforcement During Civil Disorder), pursuant to Rule 11 of the Federal Rules of Criminal Procedure.
 2. If the Court imposes a fine or restitution as part of a sentence of incarceration, Nicholas Lucia agrees to participate in the United States

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Bureau of Prisons' Inmate Financial Responsibility Program, through which 50% of his prison salary will be applied to pay the fine or restitution.

3. At the time Nicholas Lucia enters his plea of guilty, he will deposit a special assessment of \$100.00 in the form of cash, check, or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.
4. Nicholas Lucia waives the right to take a direct appeal from his conviction or sentence under 28 U.S.C. § 1291 or 18 U.S.C. § 3742, subject to the following exceptions:
 - (a) If the United States appeals from the sentence, Nicholas Lucia may take a direct appeal from the sentence.
 - (b) If (1) the sentence exceeds the applicable statutory limits set forth in the United States Code, or (2) the sentence unreasonably exceeds the guideline range determined by the Court under the Sentencing Guidelines, Nicholas Lucia may take a direct appeal from the sentence.

Nicholas Lucia further waives the right to file a motion to vacate sentence under 28 U.S.C. § 2255, attacking his conviction or sentence and the right to file any other collateral proceeding attacking his conviction or sentence.

Nothing in the foregoing waivers of rights shall preclude the defendant from raising a claim of ineffective assistance of counsel in an appropriate forum, if otherwise permitted by law. The defendant understands that the government retains its right to oppose any such claim on procedural or substantive grounds.

B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:

1. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing Court of the full nature and extent of the involvement of Nicholas Lucia in the offenses charged in the Indictment and of any other matters relevant to the imposition of a fair and just sentence.
2. The United States agrees to recommend a two-level downward adjustment for acceptance of responsibility and, pursuant to U.S.S.G. § 3E1.1(b), to move for an additional one-level adjustment. However, if at any time prior to imposition of the sentence, the defendant fails to fully satisfy the criteria set forth in U.S.S.G. § 3E1.1, or acts in a manner inconsistent with

acceptance of responsibility, the United States will not make or, if already made, will withdraw this recommendation and motion.

3. The United States Attorney will take any position she deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

C. Nicholas Lucia and the United States Attorney further understand and agree to the following:

1. The penalty that may be imposed upon Nicholas Lucia at Count One of the Information is:
 - (a) A term of imprisonment of not more than five (5) years;
 - (b) A fine not more than the greater of:
 - (1) \$250,000;
 - or
 - (2) an alternative fine in an amount not more than the greater of twice the gross pecuniary gain to any person or twice the pecuniary loss to any person other than the defendant, unless the imposition of this alternative fine would unduly complicate or prolong the sentencing process;
 - (c) A term of supervised release of three (3) years; and
 - (d) A special assessment under 18 U.S.C. § 3013 of \$100.00.
2. In a separate proceeding, Mr. Lucia is charged by criminal information in the Allegheny County Court of Common Pleas, ("state court information") at Commonwealth v. Nicholas Lucia, CP-02-CR-0008012-2020, which information alleges violations of state law arising out of the same facts and circumstances as those pleaded in the indictment at Criminal No. 20-174. Mr. Lucia's agreement to plead to Count 1 of the Indictment at Criminal No. 20-174 in exchange for the sentence set forth in paragraph C3 below, is part of a package resolution of both sets of charges, which also includes entry of a guilty plea to Count 2 of the state court information, in exchange for a term of not less than ten (10) nor more than twenty (20) months, to run concurrent to the term set forth in paragraph C3.
3. Pursuant to Rule 11(c)(1)(C), the parties stipulate and agree that the appropriate sentence in this case as to Count One is a term of imprisonment of 24 months to run concurrent to the sentence to be imposed at Allegheny

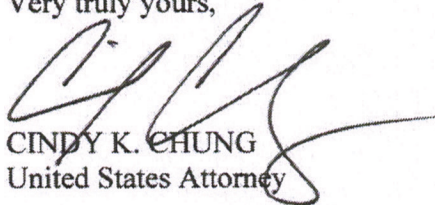
Court of Common Pleas case number CP-02-CR-0008012-2020, no fine, a term of supervised release of three years, and a special assessment of \$100.

Defendant agrees that he will not file a motion seeking relief under 18 U.S.C. § 3582(c)(2) if the Sentencing Guidelines are subsequently lowered by the Sentencing Commission.

4. Consistent with Rule 11(c)(1)(C), the Court may accept the plea agreement, reject the plea agreement, or defer a decision until it reviews the presentence report. If the Court rejects the plea agreement, consistent with Rule 11(c)(5), the defendant will have the opportunity to withdraw his guilty plea.
5. The parties agree that the willful failure to pay any fine imposed by the Court may be treated as a breach of this plea agreement. Nicholas Lucia acknowledges that the willful failure to pay any fine may subject him to additional criminal and civil penalties under 18 U.S.C. § 3611 et seq.
6. This agreement does not preclude the government from pursuing any civil or administrative remedies against Nicholas Lucia or his property.
7. Pursuant to the Standing Order of the United States District Court dated May 31, 2017, all plea letters shall include a sealed Supplement. The sealed Supplement to this plea letter is part of the agreement between the parties hereto.

This letter sets forth the full and complete terms and conditions of the agreement between Nicholas Lucia and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

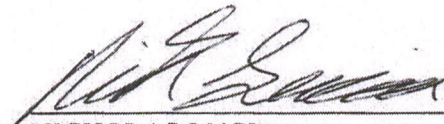
Very truly yours,



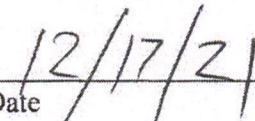
CINDY K. CHUNG
United States Attorney

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I have received this letter from my attorney, Patrick Livingston, Esquire, have read it and discussed it with him, and I understand the terms of the Agreement. I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.



NICHOLAS LUCIA



Date

Witnessed by:

/s/Patrick M. Livingston

PATRICK LIVINGSTON, ESQUIRE
Counsel for Nicholas Lucia